

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

In the Matter of the Complaint

of

ROBERT L. STANTON as owner of the
Vessel "MISTY LADY" for Exoneration
from or Limitation of Liability

and

NO: 02-CV-10408—GAO

***MOTION TO CONSOLIDATE—
ASSENTED TO***

THE CONTINENTAL CASUALTY
COMPANY, as subrogee of RONALD
SHOWALTER, MICHAEL GIOMBETTI,
and W. F. KING
Plaintiff,

NO: 04-11872—WGY

V.

NORTHSIDE MARINA AT SESUIT
HARBOR, INC., JOSEPH S. BUSCONE,
as Trustee of the Northside Marina Trust,
and FAITH BUSCONE, as Trustee of the
Northside Marina Trust
Defendants.

Now comes Continental Casualty Company (“Continental”), the plaintiff in the above-captioned matter, The Continental Casualty Company, as Subrogee of Ronald Showalter, Michael Giombetti, and W.F. King v. Northside Marina At Sesuit Harbor et al., Civil Action Number 04-11872—WGY (“Continental Action”), and moves for an order consolidating the Continental Action for all further proceedings with the above-captioned action styled In the Matter of the Complaint of Robert L. Stanton, as owner of the Vessel “Misty Lady” for Exoneration from or Limitations of Liability, Civil Action

Number 02-CV-10408-GAO (“Stanton Action”), also pending in this Court. As grounds therefore, Continental states as follows:

1. Both the Continental Action and the Stanton Action arise from the same factual circumstances, namely a fire at the Northside Marina at Sesuit Harbor, which occurred on 30 August 2001. Both matters now involve claims by the owners (or their subrogated insurers) of the vessels involved in the subject fire seeking recovery for property damage. Both cases present the same basic issues for resolution, in particular, determining the legal cause of the plaintiffs’ damages.

2. As a matter of judicial economy, the Continental Action should be consolidated with the Stanton Action. Both involve the same underlying facts and issues. It would be unfair to require the parties to conduct two separate trials addressing the same issues and factual subject matter.

3. All parties to the above actions, through counsel, assent to this motion.

WHEREFORE, for the foregoing reasons, The Continental Casualty Company, as Subrogee of Ronald Showalter, Michael Giombetti, and W.F. King prays that the within motion be allowed, that this Honorable Court order that the above action be deemed consolidated for all further proceedings with the action styled In the Matter of the Complaint of Robert L. Stanton, as owner of the Vessel “Misty Lady” for Exoneration from or Limitations of Liability, Civil Action Number 02-CV-10408-GAO, and that this Court grant any other relief deemed meet and proper.

The Plaintiff,
THE CONTINENTAL CASUALTY
COMPANY, as subrogee of Ronald Showalter,
Michael Giombetti, and W. F. King
By its Attorneys,

/s/ Philip M. Hirshberg

Lauren Motola-Davis, BBO# 638561
Philip M. Hirshberg, BBO # 567234
MORRISON MAHONEY LLP
250 Summer Street
Boston, MA 02210-1181
(617) 439-7500

Assented to:

The defendants,
Northside Marina at Sesuit Harbor, Inc.,
Joseph S. Buscone, as Trustee of the
Northside Marina Trust, and Faith
Buscone, as Trustee Of The Northside
Marina Trust,
By their Attorneys,

/s/ J. Mark Dickison (by permission)

J. Mark Dickison, BBO # 629170
LAWSON & WEITZEN, LLP
88 Black Falcon Ave., Suite 345
Boston, MA 02201
(617) 439-4990

Robert L. Stanton,
By His Attorneys

/s/ Jeffrey S. King (by permission)

Jeffrey S. King
KIRKPATRICK & LOCKHART
75 State Street
Boston, MA 02109
(617) 261-3179

The Standard Fire Insurance Company
By Its Attorneys

/s/ Robert E. Kiely (by permission)

Robert E. Kiely
REGAN & KIELY, LLP
85 Devonshire Street
Boston, MA 02109
(617) 723-0901

William C. Henchy, III
By his Attorneys

/s/ Douglas A. Robertson (by
permission)

Douglas A. Robertson
MARTIN, MAGNUSON, McCARTHY
& KENNEY
101 Merrimac Street
Boston, MA 02214
(617) 227-3240